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7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-148

13 **WAYNE TODD HAMOR**
P.O. Box 361121
Milpitas, California 95035

A C C U S A T I O N

14 Registered Nurse License No. 404868

15 Respondent.

16
17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the
20 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
21 Affairs.

22 2. On or about August 31, 1986, the Board issued Registered Nurse License
23 Number 404868 to Wayne Todd Hamor ("Respondent"). The license expired on December 31,
24 2005 and has not been renewed.

25 **JURISDICTION**

26 3. Section 2750 of the Business and Professions Code ("Code") provides, in
27 pertinent part, that the Board may discipline any licensee, including a licensee holding a
28 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code

1 section 2750) of the Nursing Practice Act.

2 4. Code section 2764 provides, in pertinent part, that the expiration of a
3 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
4 against the licensee or to render a decision imposing discipline on the license. Under Code
5 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
6 years after the expiration.

7 5. Code section 118, subdivision (b), provides, in pertinent part, that the
8 suspension, expiration or forfeiture by operation of law of a license shall not deprive the Board of
9 jurisdiction to proceed with a disciplinary action during the period within which the license may
10 be renewed, restored, reissued or reinstated.

11 STATUTORY PROVISIONS

12 6. Section 2761(a) of the Code states, in pertinent part, that the board may
13 take disciplinary action against a certified or licensed nurse or deny an application for a
14 certificate or license for unprofessional conduct.

15 7. Code section 2762 states, in pertinent part that, in addition to other acts
16 constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice
17 Act], it is unprofessional conduct for a person licensed under this chapter to do any of the
18 following:

19 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a
20 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
21 or administer to another, any controlled substance as defined in Division 10 (commencing with
22 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
23 defined in Section 4022.

24

25 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
26 entries in any hospital, patient, or other record pertaining to the substances described in
27 subdivision (a) of this section.

28

1 8. Section 4060 of the Code states, in pertinent part, that no person shall
2 possess any controlled substance, except that furnished to a person upon the prescription of a
3 physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a
4 certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section
5 2836.1, or a physician assistant pursuant to Section 3502.1.

6 9. Section 11173(a) of the Health and Safety Code states that "[n]o person
7 shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the
8 administration of or prescription for controlled substances, (1) by fraud, deceit,
9 misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

10 10. Code section 125.3 provides, in pertinent part, that the Board may request
11 the administrative law judge to direct a licensee found to have committed a violation or
12 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
13 and enforcement of the case.

14 **CONTROLLED SUBSTANCE**

15 11. "Meperidine," also known as Demerol, is a Schedule II controlled
16 substance as designated by Health and Safety Code section 11055(c)(17).

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Obtaining and Possessing a Controlled Substance)**

19 12. Respondent is subject to disciplinary action under section 2671(a) of the
20 Code, on the grounds of unprofessional conduct, as defined by section 2762(a) of the Code, in
21 that on or about April 25, 2004 and April 26, 2004, while employed as a registered nurse at
22 Kaiser Hospital in Santa Clara, California, Respondent did the following:

23 a. Respondent obtained Meperidine, a controlled substance, by fraud, deceit,
24 misrepresentation, subterfuge, or by concealment of a material fact in violation of section
25 11173(a) of the Health and Safety Code, by taking Meperidine from hospital supplies, as set forth
26 in paragraph 13, below.

27 b. Respondent possessed Meperidine, a controlled substance, in violation of
28 section 4060 of the Code.

1 patient. Respondent failed to chart the administration or wastage of any portion of the
2 Meperidine or otherwise account for the disposition of the Meperidine in any patient or hospital
3 record.

4 **Patient 1**

5 e. On or about April 26, 2004, at 03:50 hours, Respondent withdrew one (1)
6 25 mg. Meperidine syringe from the Pyxis for this patient. Respondent failed to chart the
7 administration or wastage of any portion of the Meperidine or otherwise account for the
8 disposition of the Meperidine in any patient or hospital record.

9 f. On or about April 26, 2004, at 03:51 hours, Respondent withdrew five (5)
10 50 mg. Meperidine syringes from the Pyxis for this patient. Respondent failed to chart the
11 administration or wastage of any portion of the Meperidine or otherwise account for the
12 disposition of the Meperidine in any patient or hospital record.

13 **Patient 4**

14 g. On or about April 26, 2004, at 03:39 hours, Respondent withdrew four (4)
15 75 mg. Meperidine syringes from the Pyxis for this patient. Respondent failed to chart the
16 administration or wastage of any portion of the Meperidine or otherwise account for the
17 disposition of the Meperidine in any patient or hospital record.

18 h. On or about April 26, 2004, at 03:44 hours, Respondent withdrew five (5)
19 25 mg. Meperidine syringes from the Pyxis for this patient. Respondent failed to chart the
20 administration or wastage of any portion of the Meperidine or otherwise account for the
21 disposition of the Meperidine in any patient or hospital record.

22 i. On or about April 26, 2004, at 03:53 hours, Respondent withdrew ten (10)
23 25 mg. Meperidine syringes from the Pyxis for this patient. Respondent failed to chart the
24 administration or wastage of any portion of the Meperidine or otherwise account for the
25 disposition of the Meperidine in any patient or hospital record.

26 **Patient 3**

27 j. On or about April 26, 2004, at 17:57 hours, Respondent withdrew ten (10)
28 25 mg. Meperidine syringes and fifteen (15) 75 mg. Meperidine syringes from the Pyxis for this

1 patient. Respondent failed to chart the administration or wastage of any portion of the
2 Meperidine or otherwise account for the disposition of the Meperidine in any patient or hospital
3 record.

4 k. On or about April 26, 2004, at 18:11 hours, Respondent withdrew ten (10)
5 25 mg. Meperidine syringes from the Pyxis for this patient. Respondent failed to chart the
6 administration or wastage of any portion of the Meperidine or otherwise account for the
7 disposition of the Meperidine in any patient or hospital record.

8 **PRAYER**

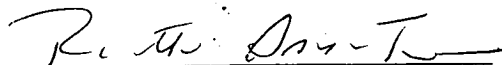
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 404868, issued
12 to Wayne Todd Hamor;

13 2. Ordering Wayne Todd Hamor to pay the Board of Registered Nursing the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
15 125.3;

16 3. Taking such other and further action as deemed necessary and proper.

17
18 DATED: 11/6/08

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20 
21 RUTH ANN TERRY, M.P.H., R.N.
22 Executive Officer
23 Board of Registered Nursing
24 Department of Consumer Affairs
25 State of California
26 Complainant
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